

June 28, 1984

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tion in Government ever held by an Oklahoman. He not only served as Speaker of the U.S. House of Representatives for 6 years, but twice was just a heart-beat away from the Presidency—first when Vice President Spiro Agnew resigned and again, when Vice President Gerald Ford succeeded Richard Nixon. He is the only living former Speaker.

Before becoming Speaker, Mr. Albert had served as majority whip and then as majority leader of the U.S. House of Representatives. He attended Oxford University as a Rhodes Scholar.

Of Mr. Albert, present Speaker THOMAS P. "Tip" O'NEILL, who succeeded him in that position, said in a speech in Oklahoma City in May 1981: "Carl's leadership abilities were evident during one of the worst constitutional crises this country has ever had." He added that Speaker Albert's "trust, composure, intellect and impartiality" had contributed to the country's solidity during the resignation of former President Nixon.

Former President Gerald Ford, speaking at that same meeting in Oklahoma City, said Mr. Albert was "always seeking to do what was in the best interest of our country."

Carl Albert's hometown of McAlester has always been very dear to him. When he retired from the Congress in January 1977, he returned to Bug Tussle, the community near McAlester where he had spent his boyhood. He has continued to be active in church and civic activities in McAlester since his retirement and still has an office in the Federal Building. Through the years he spent in Congress, he officed in that building. It is entirely fitting that the name of that building should honor him. The Parkway, a principal street in McAlester in front of the building, is already named for Mr. Albert.

As one who has known and admired Speaker Albert practically all of my life, I am honored to introduce this bill in the U.S. Senate on behalf of myself and Senator NICKLES. I understand a companion bill is being introduced in the U.S. House of Representatives by Mr. Albert's successor as Congressman from the Third District of Oklahoma, Hon. Wes WATKINS on behalf of himself and every other member of Oklahoma's Congressional delegation.●

● Mr. NICKLES. Mr. President, I rise today along with my colleague, the senior Senator from Oklahoma, DAVID BOREN, to voice strong support for legislation naming the Federal Building in McAlester, OK, the Carl Albert Federal Building.

Few Oklahomans have ever risen to such national prominence as former Speaker of the House, Carl Albert. He skillfully guided the House of Representatives during most of the last decade. Those were very trying and difficult years for our Nation, and

Speaker Albert is to be commended for his leadership role.

Speaker Albert was born in McAlester 76 years ago. He graduated from the University of Oklahoma, and studied at Oxford University in England on a Rhodes scholarship. He began his first term in the House in 1947, and was majority whip from 1955 to 1962. He served as majority leader of the House from 1962 until he became Speaker in 1971. He was the Speaker until he retired in 1977.

His contributions to the Nation and particularly to the State of Oklahoma are well known. And despite his retirement from public life, Speaker Albert continues to serve the people of Oklahoma in many, many ways.

It is more than fitting that this distinguished American should be honored with the legislation we propose today.●

By Mr. MATHIAS (for himself and Mr. STEVENS);

S. 2821. A bill to amend title 5, United States Code, to improve protections for former spouses of Government offices and employees under the civil service retirement system and the Federal employees health benefits program, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE FORMER SPOUSES BENEFITS ACT OF 1984

Mr. MATHIAS. Mr. President, today I introduce for myself and the distinguished assistant majority leader and the chairman of the Civil Service Subcommittee, Senator STEVENS, a bill which would rectify a great inequity in civil service retirement law.

There is no need to recount statistics which have become so familiar to us. Newspapers, magazines, and journals are replete with articles discussing the incidence of divorce in the United States. One significant aspect of this situation is the increasing number of marriages that dissolve after 20, 30, and even 40 years. The spouses most adversely affected by a divorce late in life are those women who have devoted their full time and resources to family and home. This is particularly true of women whose husbands had a career with the Federal Government.

Once divorced, the former spouse of a Federal employee is no longer able to continue coverage in the Federal Employees Health Benefit Plan, and in most instances, is no longer retained as the beneficiary of an employee's or annuitant's life insurance policy. And, while a former spouse may receive a portion of the employee's or retiree's annuity as part of a divorce decree or property settlement, once the employee or retiree dies, all benefits cease.

For most of these women, economic independence suddenly becomes a matter of necessity, not of choice. Unfortunately, many are ill equipped to enter the job market, with both their age and their lack of skill and experience working against them. For those

women who are not financially self-sufficient or fortunate enough to find employment, the outlook is bleak. The prospect of having to depend on welfare or other forms of public assistance to meet day-to-day needs is a bitter pill to swallow.

In recent years, Congress, recognizing that marriage is an economic partnership in which each spouse shares and enjoys the fruits of the other's labor, has enacted various measures to protect each spouse's investment. The goal of such legislation is to ensure that spouses, divorced after many years of marriage, will receive that portion of the retirement benefits to which he or she would have been entitled had he or she remained married.

Significant strides have been made in this regard, affecting Foreign Service, and military spouses, and Social Security beneficiaries. But no similar remedies have been enacted for civil service spouses. The bill I introduce today would correct that omission. Its most essential parts are as follows:

First, it permits a Federal employee or annuitant to voluntarily elect to provide survivor benefits to any former spouse. If there is a second spouse, an election to provide for a former spouse will not be valid unless it is accompanied by the written, notarized consent of the present spouse.

Second, it gives State courts the authority to include survivor benefits as part of a divorce decree or property settlement. This provision is prospective.

Third, it requires an employee at the time of retirement to obtain the written, notarized consent of his or her spouse before he or she can elect not to provide a survivor annuity.

Fourth, it permits a former spouse to enroll in the Federal employee health benefit plan as long as he or she pays the full subscription rate. This provision will apply retroactively for a limited period of time in order to allow as many former spouses as possible to take advantage of its benefits.

These provisions are the highlights of the bill. I have prepared a section-by-section summary which describes these and other portions of the bill in more detail.

This bill is being offered as an alternative to similar measures before both Houses in an effort to get some remedial legislation passed before the end of the 98th Congress. I invite the comments of all interested parties so that we may enact appropriate legislation to deal with this pressing problem.

I ask unanimous consent that a section-by-section summary and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

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Act may be cited as the "Civil Service Former Spouses Benefits Act of 1984".

**SURVIVOR ANNUITIES FOR FORMER SPOUSES:
ELECTION**

SEC. 2. Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) For the purposes of this subsection, the term 'former spouse', when used with respect to an employee, Member, or former employee or Member, means any individual who—

"(A) was married to the employee, Member, or former employee or Member for at least one year while the employee, Member, or former employee or Member was subject to this subchapter; or

"(B) was married to the employee, Member, or former employee or Member and is the parent of issue of the employee, Member, or former employee or Member.

"(2)(A) An employee or Member retiring under this subchapter or a former employee or Member entitled to an annuity under this subchapter (including an annuity deferred pursuant to section 8338 of this title) may—

"(i) elect that any portion of the annuity of the employee, Member, or former employee or Member, as computed under subsections (a) through (i) and (n) of this section, be reduced; and

"(ii) designate any former spouse of the employee, Member, or former employee or Member to receive a survivor annuity under section 8341(b) of this title computed based on the amount of the portion of the annuity that is subject to reduction by reason of the election made under clause (i) of this subparagraph.

"(B) Subject to subparagraph (C) of this paragraph, an election and designation under subparagraph (A) of this paragraph may be made with respect to more than one former spouse of an employee, Member, or former employee or Member.

"(C) The sum of the portions of the annuity of the employee, Member, former employee or Member to which the elections under subparagraph (A) of this paragraph and under subsection (j) of this section apply may not exceed 100 percent of the annuity.

"(D) An employee, Member, or former employee or Member who has made an election and designation under subparagraph (A) of this subsection may modify the election or designation at any time.

"(3) Subject to the limitation set out in section 8341(b)(4) of this title, a court of any State or the District of Columbia may, in a decree of divorce or annulment, or a court order or court approval of a property settlement agreement incident to a decree of divorce or annulment, require an employee, Member, or former employee or Member to make an election and designation pursuant to paragraph (2) of this subsection. Any such decree, order, or agreement providing that a former spouse of an employee, Member, or former employee or Member shall be entitled to a survivor annuity under this subchapter based on the service of the employee, Member, or former employee or Member shall be considered to require an election and designation pursuant to such paragraph. Such an election and designation shall be deemed to have been made upon receipt of a copy of such decree, order, or agreement (and such further documentation as the Office of Personnel Management may require) by the Office.

"(4) An election under paragraph (2) of this subsection shall be made in writing in such form and manner as the Office of Personnel Management may direct and shall be transmitted to the Office.

"(5)(A) An election under paragraph (2) of this subsection shall not be considered valid

in the case of an employee, Member, or former employee or Member who, on the date the election is made—

"(i) is married and has been married to his spouse for at least one year; and

"(ii) is not required by a court to make the election pursuant to paragraph (3) of this subsection,

unless the election includes, in such form and manner as the Office directs, a written consent of the spouse satisfying the requirements of subparagraph (B) of this paragraph.

"(B) A written consent of the spouse of an employee, Member, or former employee or Member making an election under paragraph (2) of this subsection satisfies the requirements of this subparagraph if the consent—

"(i) includes statements that the spouse consents to the election and understands that, by reason of the election, the spouse will not be entitled to receive a survivor annuity under section 8341(b) of this title based on the service of the employee, Member, or former employee or Member or will receive only a reduced survivor annuity under such section based on such service, as the case may be; and

"(ii) is signed and acknowledged by the spouse before a notary public by the spouse.

"(6) The annuity computed under subsections (a) through (i) and (n) of this section for an employee, Member, or former employee or Member making an election under paragraph (2) of this section shall be reduced by an amount computed in the same manner as provided in the first sentence of subsection (j)(1) of this section."

**SURVIVOR ANNUITIES FOR FORMER SPOUSES:
ENTITLEMENT**

SEC. 3. (a) Paragraph (1) of section 8341(b) of such title is amended—

"(1) by inserting "(A)" after "(1)"; and

"(2) by adding at the end thereof the following new subparagraph (B):

"(B) If a retired employee or Member dies survived by a former spouse designated by the retired employee or Member in an election made under section 8339(o)(2) of this title to receive a survivor annuity under this subsection, the surviving former spouse is entitled to an annuity equal to 55 percent of (i) the amount of the annuity of the retired employee or Member computed under subsections (a) through (i) and (n) of section 8339 of this title, or (ii) such portion of the amount of such annuity as is specified in the election."

(b) Section 8341(b)(3) of such title is amended to read as follows:

"(3) A surviving spouse of a deceased retired employee or Member who became the spouse of such retired employee or Member after the employee's or Member's retirement is entitled to a survivor annuity under this subsection only upon electing the survivor annuity instead of any other survivor benefit to which the spouse may be entitled under this subchapter or another retirement system for Government employees. The survivor annuity of a spouse, widow, widower, or former spouse under this subsection commences on the day after the annuitant dies. The survivor annuity and the right to the survivor annuity terminate on the last day of the last month before the spouse, widow, widower, or former spouse dies."

(c) Subsection (b) of section 8341 of such title is further amended by adding at the end thereof the following new paragraph:

"(4) The total amount of the survivor annuities payable under this subsection with respect to a deceased employee, Member, or former employee or Member may not exceed an amount equal to 55 percent of the

annuity computed under subsections (a) through (i) and (n) of section 8339 of this title as may apply with respect to such employee, Member, or former employee or Member. The order of precedence of an entitlement of a spouse, widow, widower, or former spouse to a survivor annuity under this subsection shall be based on the order in which the Office of Personnel Management receives notice of a valid election, designation, or other qualifying action made by an employee, Member, or former employee or Member, under subsection (j) or (o) of such section."

**OTHER AMENDMENTS RELATING TO SURVIVOR
ANNUITY ELECTIONS**

SEC. 4. (a)(1) The first sentence of subsection (j)(1) of section 8339 of title 5, United States Code, is amended by striking out "(o)" and inserting in lieu thereof "(n)".

(2) Subsection (j)(2) of such section is amended to read as follows:

"(2)(A) Any written notification or designation made under the first sentence of paragraph (1) by an employee or Member who, on the date of retirement, has been married to his spouse for at least one year shall not be considered such form and manner as the Office directs, a written consent of the spouse satisfying the requirements of subparagraph (B) of this paragraph.

"(B) A written consent of the spouse of an employee or Member making a notification or designation referred to in subparagraph (A) of this paragraph satisfies the requirements of this subparagraph if the consent—

"(i) includes statements that the spouse concurs in the employee's or Member's desire expressed in the notification or concurs in the employee's or Member's designation, as the case may be, and that the spouse understands that, by reason of the notification or designation, the spouse will not be entitled to receive a survivor annuity under section 8341(b) of this title based on the service of the employee or Member or will be entitled to receive only a reduced survivor annuity under such section based on such service, as the case may be; and

"(ii) is signed and acknowledged by the spouse before a notary public."

(b) Subsection (k) of such section is amended by adding at the end thereof the following new paragraph (3):

"(3) Any reduction in annuity and any entitlement to a survivor annuity resulting from an election made under paragraph (1) shall be void or limited prospectively to the extent necessary to give effect to any valid election made under subsection (o)(2) of this section."

**SURVIVOR ANNUITY FOR FORMER SPOUSES OF
CERTAIN ANNUITANTS WHO DIED BEFORE DATE
OF ENACTMENT**

SEC. 5. (a) For the purposes of this section—

(1) the term "employee" shall have the same meaning as provided in section 8331(1) of title 5, United States Code;

(2) the term "Member" shall have the same meaning as provided in section 8331(2) of such title;

(3) the term "service" shall have the same meaning as provided in section 8331(12) of such title;

(4) the term "widow" shall have the same meaning as provided in section 8341(a)(1) of such title; and

(5) the term "widower" shall have the same meaning as provided in section 8341(a)(2) of such title.

(b)(1) Notwithstanding any other provision of law, except as provided in paragraph (2), if—